

Report No.
ES18051

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: LICENSING SUB-COMMITTEE

Date: WEDNESDAY 18TH JULY 18

Decision Type: Non-Urgent Non-Executive Non-Key

Title: APPLICATION FOR THE REVIEW OF PREMISES LICENCE AT
COSTCUTTER 5 CHATSWORTH PARADE PETTS WOOD BR5
1DF

Contact Officer: Steve Phillips, Licensing Officer
Tel: 020 8313 4659 E-mail: steve.phillips@bromley.gov.uk

Chief Officer: Nigel Davies, Executive Director: Environment and Community Services

Ward: PETTS WOOD and KNOLL

1. Reason for report

- 1.1 To provide the Licensing Sub-Committee with information supporting them to determine this review of a licence application.
-

2. RECOMMENDATIONS

- 2.1 The Licensing Sub-Committee asked to determine this application having taken into account the Council's Statement of Licensing Policy 2016 to 2021 and written and oral representations by the applicant and objectors.

Members can

1. Modify the conditions of the licence
2. To exclude a licensable activity from the scope of the licence.
3. To remove the Designated Premises Supervisor
4. To suspend the licence for a period not exceeding three months
5. To revoke the licence

Impact on Vulnerable Adults and Children

1. Summary of Impact:

When making decisions under the Licensing Act 2003 the Council is required to promote the licensing objectives, one of which is the protection of children from harm.

Corporate Policy

1. Policy Status: Existing Policy:

The Council has adopted a statement of its licensing policy under the Licensing Act 2003 for the period 2016 to 2021.

2. BBB Priority: Children and Young People Excellent Council Quality Environment Safe Bromley Vibrant, Thriving Town Centres Healthy Bromley Regeneration

Financial

1. Cost of proposal: Licensing statutes allow for an appeal to the Magistrates Court against the Council's decision. Should an appeal be made, costs are likely to be incurred but it is not possible to quantify these.
 2. Ongoing costs: Non-Recurring Cost
 3. Budget head/performance centre:
 4. Total current budget for this head: £
 5. Source of funding:
-

Personnel

1. Number of staff (current and additional): 2 Licensing Officers supported by 3.5 FTE admin
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement: The Council is the Licensing Authority for the Licensing Act 2003. This is a Non-Executive function and is delegated to the General Purposes and Licensing Committee. Where representations are received about a licence application, it is referred to the Licensing Sub Committee for a hearing and decision.
 2. Call-in: Not Applicable:
-

Procurement

1. Summary of Procurement Implications: Not applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): When determining this application Members need to balance the benefits of holding the licence against any adverse effects to local residents and businesses by considering the impact on the licensing objectives

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes. Ward Members were notified about the application by e-mail on 30th May 2018
2. Summary of Ward Councillors' comments: No Councillors responded to this application

Responsible Authorities Views

The following Responsible Authorities were notified about this application and their views sought

Responsible Authority	Date Notified	Comments (further details in Appendix 3)
Metropolitan Police	30 th May 18	No Responce
Planning Authority	30 th May 18	No Responce
Trading Standards Service	30 th May 18	APPLICANT
Public Health Nuisance Team	30 th May 18	No Responce
Health & Safety Team	30 th May 18	No Responce
Child Protection Team	30 th May 18	No Responce
Fire Authority	30 th May 18	No Responce
Public Health	30 th May 18	No Responce

3. COMMENTARY

3.1. Licensing Act 2003.

The Licensing Act 2003 states that any premises require a licence/certificate issued by the Council (premises licence/club premises certificate) where the following activities occur:-

Provision of regulated entertainment

- a) Plays. (Where the audience exceeds 500 people)
- b) Films.
- c) Indoor sporting events. (Where the audience exceeds 1000 people)
- d) Boxing or wrestling entertainment.
- e) Live music. (subject to the Live Music Act 2013 exemptions)
- f) Recorded music.
- g) Performances of dance. (Where the audience exceeds 500 people)

Provision of late night refreshment (between 2300hrs and 0500hrs).

Supply of alcohol (on and off sales).

The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

The sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place.

Licences/Certificates may be issued subject to any terms, conditions or restrictions the Council feels are appropriate to address any or all of the four licensing objectives.

The Council has previously agreed Bromley's Statement of Licensing Policy for the Period 2016 – 2021.

The Licensing Sub-Committee must consider the Statement of Licensing Policy and any Special Policy of Cumulative Impact currently in force when making any decisions in respect of these applications.

Members' attention is drawn to the following parts of the policy which are relevant to this application

Guidance adopted by members on Review Applications found in appendix 4

Description of the Premises

The premise sits on Chatsworth Parade on Queensway Petts Wood and is shown in the google maps image in appendix 3. It comprises of a convenience store selling a broad range of groceries, household products and alcohol. The current premises licence shown in appendix 2.

Licensing History

3rd Jan 2017 Complaint caps No 17/00002/CMPP: about under age youths buying cigarettes.

25th Jul 2017 Complaint caps No 17/00803/OTHER: about minors buying alcohol

29th Aug 2017 complaint caps No 17/00930/CMPP: complainant who is a resident in Petts Wood and also a PCSO saw boys that look about 13 years old with alcohol. The youths are hanging around outside Costcutters and asking adults to buy them alcohol. The complainants husband has been asked twice. She confronted the manager of the store who told me that there was nothing he could do about it. I saw his employee an IC1 male aged about 20 come out of the store and walk along the road with the youths.

20th Oct 2017 complaint caps No 17/01167/INIT: allegation Costcutter selling alcohol to children who they know.

Oct 2017: complaint caps No 17/01167/INIT

Meeting at Civic Centre with owner of Costcutter, interview with owner Mr Kemalraj Varatharaja and Andrea O'Donnell Police Licensing Officer and Tracey Firth Senior Consumer Protection Inspector. A PCSO stopped the sale of alcohol to an under age boy, confirmed when checked cctv footage. Informal advice given by Trading Standards and the Police to make sure all staff follow challenge 25 policy and to review the training of staff at the shop.

25th Nov 2017 complaint caps No 17/01321/INIT selling fireworks to TSO Ms Hancock after the allowed date this has now been put forward as a written warning: details,
On Saturday 25th November 2017 VLK Express Ltd sold fireworks to an officer from the Trading Standards outside the permitted statutory selling time periods. Without a year round selling licence, fireworks can only be sold and exposed for sale during selected dates. These include between 15th October and 10th November, followed by 26th December and 31st December. VLK Express Ltd do not hold a year round selling licence. Mr Kemalraj Varatharaja told Trading Standards officers at interview that he will no longer be selling fireworks. A written warning has been recommended and is awaiting Head of Service approval.

13th Dec 2017 complaint caps No 17/01377/INIT that young boys as young as 15 are buying alcohol from a local shop Costcutter.

Jan 2018

Anon allegation from mother of young girl, the young girl was seen charging her phone behind the counter and a sales assistant giving her miniature vodka and both of them going to the back of shop out of sight for 5 minutes. This was viewed by Andrea O'Donnell on the shops CCTV. The mother made a complaint about her daughter being harassed but the daughter will not make a complaint..

The current licence is shown at Appendix 2.

Details of the Application

1. To review the premises licence following the sale of alcohol to underage children

A copy of the full application is set out Appendix 1

Representations

During the public consultation period the Council received no additional representations

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 Licensing regimes provide for additional controls through specific permissions to undertake activities. Both the Licensing Act 2003 and Gambling Act 2005 contain licensing objectives which seek to protect particular vulnerable groups. In the case of the Licensing Act 2003 it seeks to protect children from harm whereas the licensing objectives under the Gambling Act 2005 are wider and seek to protect children and vulnerable adults from being harmed or exploited.
- 4.2 Businesses and the Council are required to promote these objectives in the way they operate or make decisions.
- 4.3 Details of applications under both Acts are referred to the appropriate safeguarding teams for comment.

5. POLICY IMPLICATIONS

- 5.1 Both the Licensing Act 2003 and the Gambling Act 2005 require the Council to prepare, consult on and publish statements of their licensing policy. These must be reviewed at least every 5 years under the Licensing Act and 3 years under the Gambling Act.
- 5.2 Members should make decisions in accordance with these policies but are free to depart from them with good reason.
- 5.3 The current policies are -
- Statement of Licensing Policy 2016 – 2021
http://www.bromley.gov.uk/downloads/file/226/statement_of_licensing_policy_2016-2021
 - Statement of Gambling Policy 2016-2019
http://www.bromley.gov.uk/downloads/file/325/gambling_policy

6. FINANCIAL & LEGAL IMPLICATIONS

- 6.1 There are rights of appeal to the Magistrates Court against the decision of the Sub-Committee under both the Licensing and Gambling Acts. If an appeal were to be lodged there are costs associated with defending it. These are difficult to quantify and the Courts can award costs. In the event of a successful appeal we could pay the costs of the appellant as well as our own. Equally if we successfully defended an appeal, it is open to the Court to order our costs to be paid by the appellant.
- 6.2 Parties involved in a hearing before a Sub-Committee can also seek a Judicial Review if the Local Authority has failed to administer the hearing in accordance with proper procedures.
- 6.3 The Council has adopted a procedure for the conduct of hearings.

Non-Applicable Sections:	Personnel and Procurement implications
---------------------------------	--

Background Documents: (Access via Contact Officer)	Soft File Computer based records
--	----------------------------------

Appendix 1

(Application Form)

Application for the Review of a Premise Licence under the Licensing Act 2003

**Costcutter
5 Chatsworth Parade
Petts Wood
BR5 1DF**

Contents

1. Application for the review of a premise licence under the Licensing Act 2003

2. Appendices

Appendix 1 Notice of rights

Appendix 2 Trading Standards inspection sheets

Appendix 3 Underage sales information pack

Appendix 4 2 bottles of Kopparberg cider and a packet of 20 Mayfair cigarettes

Appendix 5 Letter to Mr Varatharaja from Ruth Hancock dated 12th January 2017



THE LONDON BOROUGH
www.bromley.gov.uk

[Insert name and address of relevant licensing authority and its reference number (optional)]

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Rob Vale, Chief Inspector of Weights and Measures

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Name and postal address of premises or, if none, ordnance survey map reference or description	
Costcutter 5 Chatsworth Parade Petts Wood	
Post town Orpington	Post code (if known) BR5 1DF

Name of premises licence holder or club holding club premises certificate (if known)
Mr Kemalraj Varatharaja

Number of premises licence or club premises certificate (if known)
15/00105/LAPRE Issue Number 001

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates

(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Rob Vale Trading Standards London Borough of Bromley Civic Centre Stockwell Close Bromley BR1 3UH
Telephone number (if any) 020 8313 4785
E-mail address (optional) rob.vale@bromley.gov.uk

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

Please state the ground(s) for review (please read guidance note 2)

This application is in respect of the protection of children from harm following the sale of alcohol and tobacco to underage youths.

Please provide as much information as possible to support the application (please read guidance note 3)

This application is the result of a sale of alcohol and tobacco to underage volunteers on Saturday 10th February 2018.

1. Ownership

The Premise Licence is held by Mr Kemalraj Varatharaja. He is also the Designated Premises Supervisor. The business is owned by VLK EXPRESS LTD and Mr Kemalraj Varatharaja is the Director.

2. Location and Nature of Business

Costcutter is a small grocer shop along the parade of shops in Petts Wood Orpington.

3. Trading Standards

The Trading Standards team is proactive in arranging underage test purchases throughout the Borough as part of the Council's childrens' safeguarding agenda and commitment to protecting children from harm. Through a stepped programme of enforcement, Trading Standards staff provide advice to traders about actions they can take to prevent underage sales, providing free materials for them to use and education and training opportunities at the very beginning of the process, with the aim of creating improvement in the businesses and minimising the occurrence of underage sales in the Borough. The traders are then tested by using 18 year old volunteers without identification attempting to purchase age restricted products. Where a sale occurs, the trader is informed a follow up test purchase with under age volunteers will be carried out. When complaints are received additional test purchasing activity may be carried out.

Trading Standards Underage Sales Information Visit

The Trading Standards visit was carried out on 10th August 2017 by Senior Consumer Protection Inspector, Mrs Tracey Firth. The officer spoke to a gentleman who identified himself as Mr MAHINTHAN. Mr MAHINTHAN said he had just started working at the shop and that the owner was Mr Kemalraj. The officer discussed the law around age restricted products and handed Mr MAHINTHAN the free underage sales information pack. A notice of rights was also provided, produced at Appendix 1, together with a copy of the Trading Standards Premise Record Form which was completed at the time of the visit and located in Appendix 2. Appendix 2 also contains the notes made by the officer at the time of the visit. A copy of the free underage sales information pack left with Mr MAHINTHAN is attached at Appendix 3.

Challenge 25 Test Purchase of an Age Restricted Product

On Thursday 5th October 2017 a Challenge 25 operation was organised where an 18 year old volunteer who was instructed not to carry identification visited Costcutter to test purchase alcohol. The volunteer was asked for identification and no sale took place.

Underage Test Purchase of Age Restricted Products

On Saturday 10th February 2018 the Trading Standards team carried out an underage sales test purchase operation. Costcutter was included in this operation because of intelligence which had been received by the Trading Standards department. For further information about the trader's history, see section 4 below.

The underage sales operation tested compliance with section 146(1) Licensing Act 2003 and section 7(1) Children and Young Persons Act 1933. RIPA authorisation had been granted for the operation. The Trading Standards team were assisted by two 15 year old female volunteers. At the beginning of the session the volunteers were briefed on the nature of the campaign and given instructions about how to attempt to purchase alcohol and tobacco for the operation. They were told to say that they do not have any identification if it is requested and that they should say they are aged eighteen if they are asked their age.

When the volunteers had been briefed, Mrs Firth took 5 photographs of them using a digital still camera. The pictures were captured on the camera's memory card and were printed out. The printed photos were then placed in a plastic sleeve and taken out to identify the volunteers to traders who sold during the operation.

These photos will be made available at the review.

Four officers were present on the day: Ruth Hancock Lead Trading Standards Practitioner, Rob Vale Head of Trading Standards and Community Safety, Tracey Firth Senior Consumer Protection Inspector and PC Coleman Sullivan Bromley Youth Engagement Officer/Volunteer Police Cadet Coordinator.

At around 12.44hrs the team arrived at Costcutter 5 Chatsworth Parade, Petts Wood, BR5 1DF. The covert camera was worn by one of the volunteers and was activated just before beginning the test purchase. The camera was connected to a transmitter unit that sent the images from the camera to an App on a Tablet which enabled an officer to watch the footage being recorded by the camera in real time outside of the shop.

The other volunteer wore a headphone and microphone set draped around her neck which was attached to a mobile phone that had an open telephone line to another officer's mobile who was also positioned outside of the shop. The listening officer was able to hear in real time the conversation during the test purchase.

These steps are taken to ensure the wellbeing and safety of the volunteers at all times.

When all the equipment had been activated, Ms Hancock instructed the volunteers to enter the premises and attempt to purchase tobacco and alcohol.

When the volunteers came out of the shop they handed Ms Hancock 2 bottles of Kopparberg cider and a packet of 20 Mayfair cigarettes. The purchases have been produced at Appendix 4 and will be available to view at the hearing.

Ms Hancock and Mrs Firth returned to the shop and spoke to a male who identified himself to be a sales assistant called Mr Pratheepa JEYAPALAN. It was Mr JEYAPALAN who sold the cider and tobacco to the volunteers. Mrs Firth recorded at the time of the visit that Mr JEYAPALAN said that he normally asks for ID but thought that the volunteers were 18.

On a later date, Mrs Firth reviewed the camera footage of the sale. The footage showed the volunteers selecting the bottles of cider, going to the till and then asking for a packet of 20 Mayfair cigarettes. The seller did not challenge the age of the volunteers nor did he ask them to provide any proof of age identification.

4. Trader History on the Trading Standards Database

3rd Jan 2017 Complaint received from local resident alleging that the trader is selling cigarettes to underage customers. A letter was sent to Mr Varatharaja by Ms Hancock dated 12th January 2017 alerting him to the allegation, reminding him about his responsibilities when selling age restricted products and advising him that an underage test purchase would be carried out. A copy of the letter has been attached as Appendix 5. An information pack with the advice sheets similar to those in Appendix 3 was also enclosed with the letter.

14th March 2017 Underage test purchase of alcohol and tobacco – no sale

26th Jul 2017 Intelligence received from the police which they had received alleging that the trader was selling alcohol to minors

10th Aug 2017 Trading Standards underage sales information visit

29th Aug 2017 Complaint from local resident who also said she was a PCSO in a neighbouring borough. The complainant stated: "Recently I have witnessed anti-social behaviour in Petts Wood. I have seen boys that look about 13 years old with alcohol. The youths are hanging around o/s The Costcutter and asking adults to buy them alcohol. My husband has been asked twice now. I confronted the manager of the store who told me that there was nothing he could do about it. He did not deny it and as the boys are hanging around right o/s he must know full well what is going on. I saw his employee a male aged about 20 come out of the store and walk along the road with the youths."

19 Sept 17 Trading Standards underage sale test purchase for alcohol and tobacco – no sale

5 Oct 17 Trading Standards Challenge 25 test purchase for alcohol - no sale

Mid Oct 2017 Intelligence received from Police alleging that on 29th September 2017, a PCSO witnessed the trader preparing to sell alcohol to person estimated to be underage. On 20th October 2017 PC Andrea O'Donnell from Licencing Bromley Borough Police and Mrs Firth from Trading Standards reviewed the CCTV footage of the evening of 29th September 2017 with Mr Varatharaja. In a letter sent to Mr Varatharaja on 20th October 2017 from PC O'Donnell it is recorded that: *"we agreed that it showed at around 1945 hours Mr Mathivthan asking for ID and refusing a sale when none could be produced. The same footage then shows Mr Mathivthan appear to be about to sell alcohol to young looking male without checking his ID but the PCSO enters the venue and the sale is cancelled. The PCSO believed this was a local youth and from the footage the cashier does appear to know the customer."* The matter was concluded with the written warning letter, which included the advice that Mr Varatharaja review the training of all of his staff who are involved in the alcohol sales

31 Oct 2017 Trading Standards underage sale test purchase for fireworks – no sale

25th Nov 2017 Fireworks were sold to a Trading Standards Officer outside of the statutory time periods. This offence is not an underage sales matter but provides a fuller picture of the trader's history with the Trading Standards department. The matter was closed with Mr Varatharaja being sent a written warning

13th Dec 2017 complaint from a member of the public alleging that "Cost cutters in Press Wood has been selling alcohol to 15 year old boys."

10th Feb 2018 Trading Standards underage sale test purchase alcohol and tobacco resulting in a sale and the subject of this Review.

5. Recommendations

Paragraphs 18 and 19 of Premises Licence 15/00105/LAPRE refer to requirements to have a Challenge 25 scheme.

The following additional conditions to the premise licence could be considered:

1. The Premises Licence Holder shall maintain a list of names in the shop which identifies the staff who are permitted to sell alcohol. This shall be immediately made available to Police or Council Officers on request
2. The Premises Licence Holder shall maintain at the premises a file for each person at the premises permitted to sell alcohol. The file is to contain records of training and copies of any training reviews. This shall be immediately made available to Police or Council Officers on request.
3. The refusal register shall be inspected on a regular basis (at least monthly) by the DPS and signed by the DPS indicating that they have checked the register. Refusal register records shall be held for a minimum of 12 months
4. A short licence suspension or revocation could be considered.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

±	±	±	±	±	±	±	±
---	---	---	---	---	---	---	---

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature *[Handwritten Signature]*

Date *26.4.2018*

Capacity *Chief Inspector of weights & Measures.*

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



LICENSING ACT 2003

Who do I have to send a copy of an application to?

When you make an application for a licence you have to send copies of your application to various people and organisations.

This list gives you the names and addresses of those people.

At the Council

The Licensing Team	Public Protection North Block, Civic Centre, Stockwell Close, BR1 3UH	licensing@bromley.gov.uk 020 8313 4218 020 8461 7956/7546
Public Health Complaints Team	Public Protection North Block, Civic Centre, Stockwell Close, BR1 3UH	ehs.customer@bromley.gov.uk 020 8313 4800
Health and Safety Team (unless the premises are visited by HSE, see below)	Public Protection North Block, Civic Centre, Stockwell Close, BR1 3UH	health.safety@bromley.gov.uk 020 8313 4800
Chief Inspector of Weights and Measures	Public Protection North Block, Civic Centre, Stockwell Close, BR1 3UH	trading.standards@bromley.gov.uk 020 8313 4800
Planning Department	Planning Enforcement North Block, Civic Centre, Stockwell Close, BR1 3UH	planning@bromley.gov.uk
Bromley Safe Guarding Children Board	Room B40A St. Blaise, Civic Centre, Stockwell Close, BR1 3UH	bscb@bromley.gov.uk 020 8461 7816
Public Health	The Director of Public Health Bromley Civic Centre, Stockwell Bldg, Stockwell Close, Bromley Kent BR1 3UH	

Others

Metropolitan Police	Metropolitan Police Service Bromley Borough Police Station, High Street, BR1 1ER	licensing.py@met.police.uk 020 8284 9988
London Fire Brigade	Documents Management 169 Union Street London SE1 0LL	FSR- AdminSupport@london-fire.gov.uk - fire.gov.uk Telephone: 020 8555 1200 Ext. 37630
HSE Only if the premises are visited by the HSE and not the Council	HSE Rose Court 2 Southwark Bridge London, SE1	licensing.applications@hse.gsi.gov.uk

Appendix 1

Notice of rights

020 8313 4467
tracey.firth@bromley.gov.uk

Dear Business Owner,

Notification of Trading Standards visit

Code of Practice – Powers of Entry (Section 48 (1)(a) of the Protection of Freedoms Act 2012)

Consumer Rights Act 2015 (Schedule 5)

Tobacco Advertising and Promotion Act 2002; Licensing Act 2003;

Children and Young Persons Act 1933; Consumer Protection Act 1987;

Standardised Packaging of Tobacco Products Regulations 2015 and

Tobacco and Related Products Regulations 2016

This notice is given to under the provisions listed above to advise you that I am a duly authorised officer of the London Borough Bromley Trading Standards and am visiting your shop to carry out a routine inspection to check compliance against the legislation enforced by this Service. I may be accompanied by such persons, and may take onto the premises such equipment, as I think necessary.

This Notice is given in compliance with Paragraph 23(3) of Schedule 5 of the Consumer Rights Act 2015 and the above mentioned Code of Practice (Section 8.1)

Obstruction offence: Obstructing a duly authorised officer is an offence. Obstruction includes where a person intentionally obstructs an officer; intentionally fails to comply with instructions given by an officer; without good reason fails to give an officer assistance or information reasonably required; makes a statement or a reckless statement which they know is false or misleading.

If you are an employee it is important that you pass this notice to the business owner(s), the relevant manager or company director etc.

Yours faithfully

T.Firth

Tracey Firth
Senior Consumer Protection Inspector

Appendix 2

Trading Standards inspection sheets



THE LONDON BOROUGH

Trading Standards Premises Record Form

Trader name C. O. S. S. T. S. W. T. T. E. R.
 Person seen M. S. H. A. M. M. A. T. H. A. N. (consumer advice center)
 Address 55, G. R. A. N. T. S. W. E. T. P. L. A. S. S. E. R. S. T. R. A. D. E. Tel No (domestic) 0.7.9.1.5.0.8.6.5.5.7
 Website (London Council) Email M. S. H. A. M. M. A. T. H. A. N.

Information to the Occupier

(Notice of the powers to search premises and of the rights of occupiers - Police and Criminal Evidence Act 1984 and Code of Practice)

Reference No:

1411

POWER UNDER WHICH SEARCH MADE
 Warrant (copy attached)
 Act section
 Date granted by

or Statutory power under
 Tobacco Advertising and Promotions Act 1971
 Consumer Rights Act 2015

or with consent of person
 (only applicable where officer has no statutory powers to investigate matter)
 I hereby consent to Public Protection Personnel to search the above named premises
 Signature Age
 Name (capitals)
 Position held

PERSONS ON PREMISES (record names if known)

Did occupier request other person to be present during search? Yes/No
 If request refused, state why

Page 4 of 114

If you wish to see a copy of the code please contact the officer in charge of the search/visit.

Advice/action to be taken/articles seized/voluntary surrender

Tobacco Advertising displayed
 Tobacco displayed - contact
 Business returning fish displayed
 E. C. O. S. S. T. S. W. T. T. E. R. not an displaying box
 55 G. R. A. N. T. S. W. E. T. P. L. A. S. S. E. R. S. T. R. A. D. E. box
 EVAN HALL are 500/11 Ringway 2, Bromley
 10 mins (call) reference 0203 619 1066
 Well close is with by the front of the station of
 E. C. O. S. S. T. S. W. T. T. E. R. office of Bromley
 Notice received by M. S. H. A. M. M. A. T. H. A. N. Name (print)
 (signature)

OFFICER IN CHARGE OF SEARCH/VISIT

Name
 Position
 Signed (reporting officer)
 Telephone number

Date 18/11/17

Time of visit
 Start 9.00 Finish 9.30

Page 24 of 114

Age Restricted Sales Information Visit

Date: 10/18/17

Name	Mrs Mahinthan	Position	Sales assist (new)
Trading name	COSTCUTTER		
Owner(s) of business (Sole, partners or company)	Mr Kamalraj		
Owner's tel no	0791586551 didn't know	Owner's e-mail	didn't know
Statutory Section			
Is a business names notice on display? Duty to enforce under Companies Act 2006			Yes or No
Is a tobacco notice on display? Duty to enforce under Children and Young Persons (Protection from Tobacco) Act 1991			Yes or No
Is the tobacco display covered? Powers of entry etc under: Tobacco Advertising and Promotion Act 2002			Yes or No
Do all packets contain a min of 20 cigarettes? Powers of entry etc under: Consumer Rights Act 2015			Yes or No
Are all cigarettes in standardised packets Powers of entry etc under: Consumer Rights Act 2015			Yes or No
Is tobacco correctly price marked? Powers of entry etc under: Tobacco Advertising and Promotion Act 2002			Yes or No
All e-cigs tanks have a max capacity of 2ml Powers of entry etc under: Consumer Rights Act 2015			Yes or No
All e-cig refill container have a max capacity less than 10ml Powers of entry etc under: Consumer Rights Act 2015			Yes or No
All e-cig liquid has a max nicotine limit of 20mg per ml Powers of entry etc under: Consumer Rights Act 2015			Yes or No
If any No answers, did you refer the trader to the advice pack for guidance about compliance?			Yes or No
UAS Advice Section			
Tobacco, alcohol and/or e-cigs sold?	Tobacco: Yes or No	Alcohol: Yes or No	E-cigs: Yes or No
Did you remind the trader about the age restriction on the sale of tobacco, alcohol and e-cigs in his/her shop?	Yes or No		
Did you describe Challenge 25 and encourage the trader to use it?	Yes or No		
Did you remind the trader: "No Id, No sale"?	Yes or No		
Were there any Challenge 25 materials on display?	Yes or No		
What was on display and where?	Large posters & ^{post} stickers around shop		
Did you leave the advice pack?	Yes or No		

(Form. August 17)

Appendix 3

Underage sales information pack

020 8461 7791
ruth.hancock@bromley.gov.uk

Our Ref: **ARP IV**

August/September 2017

Dear Business Owner/Premise Licence holder

AGE RESTRICTED PRODUCTS SALES AND TRADING STANDARDS LAW

An Officer from Bromley Trading Standards has visited your premises today to carry out a routine inspection to check compliance against legislation enforced by this Service and to talk with you about the sale of age restricted products.

During the visit this **information pack** will have been provided. It is mainly about the sale of age restricted products and displaying your business names information in your shop. It includes advice sheets, a refusals register, materials for you to display in the shop, information about the Proof Age London PASS approved proof of age card and application forms for a different scheme called Citizen Card which can be handed to customers without age identification. Also enclosed in the pack are details about online underage sales prevention training provided by www.virtual-college.co.uk. The training has been jointly produced with the Chartered Trading Standards Institute and costs £15 plus VAT. We would encourage you to follow a training programme on underage sales prevention either through the Virtual College or one of the many other training underage providers which are also available.

Please ensure that you read all of the information in this pack, review your processes and introduce any changes that you may feel necessary as it could protect you and your staff from breaking the law. You will also have been left a **Trading Standards Inspection Report**. This will list any advice and corrective actions which the Officer identifies that you need to take during the visit.

'No Id, No Sale'

When selling an age restricted product, it is crucial that your staff are trained to ask for proof of age identification rather than questioning a person's age. Trading Standards recommend that you use the 'Challenge 25' policy which means **when a buyer looks under the age of 25 and does not have a valid proof of age which shows they are over 18, the sale must NOT be made**. Just as a reminder, acceptable forms of proof of age identification are:

- a UK DVLA issued photocard driving licence; or
- a UK passport; or
- a PASS hologram Proof of Age Card.

More information about 'Challenge 25' is described in the information pack and we strongly recommend that you introduce this if you have not already done so.

Continued over page

What you should do next?

- Carefully read the information in the pack provided
- Review your age restricted sales prevention processes and introduce any changes you feel may be necessary
- Use any of the materials in the pack which may helpful to you
- Review the Inspection Report and carry out all corrective action required
- Trading Standards also encourage you to complete underage sales prevention training.

Test purchases

A test purchase of an age restricted product(s) by volunteers under 25 will be made at your shop. They will not have any proof of age identification. Where underage volunteers are used, they will be instructed to say they are 18 if asked their age. Please be advised that in the course of making test purchases we may use a covert officer witnessing the event and/or use covert recording equipment, for example, a concealed video camera.

In the event of a sale of an age restricted product being made to our underage volunteers you will be reported. This could result in legal proceedings, a criminal record and a fine. In the case of alcohol, a fixed penalty notice and/or a review of your licence could also result.

Trading Standards request that you take this opportunity to ensure your business is complying with all relevant legislation. If you have read the information pack and you are unsure on any aspect, please request additional advice from Senior Consumer Protection Inspector Mrs Tracey Firth on 020 8313 4467.

Yours faithfully

Ruth Hancock

Ruth Hancock
Lead Trading Standards Practitioner

Prevention of under age sales online training

www.virtual-college.co.uk



The Chartered Trading Standards Institute (CTSI) and Virtual College have joined together to create a range of online training resources which are highly relevant to all businesses, including 'Prevention of under age sales.'

In the UK certain products have age based sales restriction mandated in law.

Enforcement is active: Police and Trading Standards officers are permitted to send children into retailers to attempt to buy restricted products.

The potential penalties are large, both for the individual and the retailer. If caught selling an age restricted product, the retailer will be required to demonstrate due diligence, this includes evidence of effective staff training and that the staff have understood the training.

This course aims to help protect organisations and employees from:

- Prosecution
- Bad PR
- Fines
- Loss of business

Most people have some difficulties in accurately judging the age of a person. Whether or not someone appears to be over a certain age is subjective and depends on the individual making the decision. This leaves brands and individuals vulnerable.

On completion of this module, learners will understand:

- Why age restrictions exist, what the legal requirements are and who is responsible for upholding these requirements
- What goods are covered by age restrictions and where they are sold
- How to approach the sale and what forms of identification are acceptable
- How to refuse a sale

Lesson Plan

The course will be split into the following sections and will provide contextual advice generated from a wide variety of scenarios:

- Section 1 – Introduction to Age Restricted Goods
- Section 2 – What good are covered and where are they sold?
- Section 3 – How to Approach the Sale
- Section 4 – How to Refuse a Sale

Certification

On completion of this course you will be able to download a Virtual College certificate.

Duration

Approximately 1 hour. The length of time taken depends entirely on how quickly you can study and absorb the material. You can proceed as quickly or slowly as you like.

Target Audience

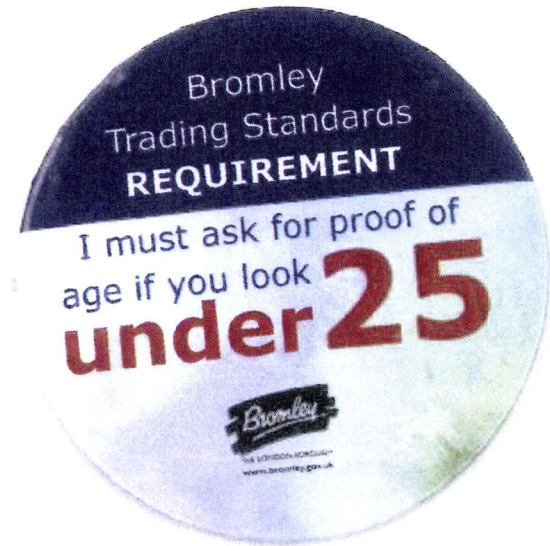
All retail and hospitality outlets that sell age restricted products.

Entry Requirements

There are no specific entry requirements for this course.

£15.00 + VAT

January 2017



You are now in a

Bromley Identification Zone

If you look **under 25**
you **will** be asked
to prove your age

Alcohol
Tobacco
Fireworks
18 DVDs
Knives

London Borough of Bromley
Trading Standards - Public Protection



You are now in a

Bromley Identification Zone

If you want to buy

**Alcohol Tobacco
Fireworks
18 DVDs Knives**

and you look

under 25

you **will** be asked to prove
your age



Acceptable forms of ID:

- > Photocard driving licence
- > Passport
- > PASS hologram proof of age card
- > Bromley 'biz' proof of age card

Bromley Environmental
Health & Trading Standards

Supported by the
Staying Healthy Partnership



SMOKEFREE

Bromley **NHS**
Primary Care Trust

saferbromley
partnership



356.09



16-25?

Pubbing or clubbing? Don't forget your PAL

*PASS approved proof of age card
Standardised design card accepted everywhere*

- London's own proof of age card
- Just £10
- Administered by Southwark Trading Standards



To apply for a PAL card contact:

020 7525 4261
pal@southwark.gov.uk

Alcohol

In the guide

- [Preventing the sale of alcohol to children - an overview](#)
- [The law](#)
- [Proxy sales of alcohol](#)
- [Keeping within the law](#)
- [Penalties](#)
- [Further reading](#)

This guidance is for England & Wales

Everyone involved in sales from on-licensed and off-licensed premises should be aware of their obligations under the Licensing Act 2003 relating to the prevention of sales of alcohol to children.

It is essential that you keep within the law and have systems in place that will act as a legal defence to an allegation that an underage sale of alcohol has taken place. If you do sell alcohol to an individual who is under 18 you could be prosecuted and fined and your licence to sell alcohol could be at risk.

Preventing the sale of alcohol to children - an overview

The Licensing Act 2003 sets out a series of objectives, which a licensing authority is required to promote. *'The licensing objectives are:*

- *the prevention of crime and disorder*
- *public safety*
- *the prevention of public nuisance*
- *the protection of children from harm'*

The objective on *'the protection of children from harm'* includes preventing the sale and supply of alcohol to children. The law sets out the framework that aims to achieve this objective.

The premises licence holder, the designated premises supervisor (who must be a personal licence holder), any other personal licence holders, and staff within on-licensed and off-licensed premises should all be aware of their obligations under the Licensing Act 2003 relating to the prevention of sales of alcohol to children.

It is the premises licence holder and designated premises supervisor's responsibility to keep within the law and to have systems in place that will act as a legal defence to an allegation that a sale of alcohol has taken place to an individual under the minimum legal age.

A penalty notice for disorder (PND) is a type of fixed penalty notice that can be issued by a police officer, police community support officer or an 'accredited person' to a person who sells alcohol to someone under the age of 18. It is intended to provide a quick and effective means of dealing with certain types of offending - as an alternative to prosecution - and may be issued where the person making the sale is the bar person or member of staff in off-licensed premises. The current penalty charge is £90.

A responsible authority, such as police or trading standards, may ask the licensing authority to review the licence because of a problem at the premises related to any of the four licensing objectives. The licence could be suspended or revoked. Other licensable activities and non-licensable activities are not affected by this suspension order.

The law

The Licensing Act 2003 sets out the offences, defences and penalties that relate to underage sales of alcohol.

Sale of alcohol to children

A person commits an offence if they sell alcohol to an individual under 18.

If you are charged with an offence you have the defence that you believed the individual was 18 or over, and you had either taken all reasonable steps to find out the individual's age or that no one could reasonably suspect from their appearance that they were under 18. 'Reasonable steps' means asking the individual for evidence of their age, and that the evidence would convince a reasonable person.

If you are charged with an offence due to the conduct of someone else - a member of staff for instance - you have the defence that you exercised all due diligence to avoid committing it. (The **'Keeping within the law'** section below explains what this means.)

Allowing the sale of alcohol to children

A person who works at premises in a capacity that authorises them to prevent the sale of alcohol to an individual under 18 commits an offence if they knowingly allow the sale of alcohol to take place.

Persistently selling alcohol to children

It is an offence for a 'responsible person' (the premises licence holder) to unlawfully sell alcohol to an individual under 18 at the same premises on two or more different occasions within a period of three consecutive months.

An 'unlawful sale' is defined as where the person making the sale believed the individual was under 18 or that the person did not have reasonable grounds for believing the individual was 18 or over. 'Reasonable grounds' means asking the individual for evidence of their age and that this evidence when provided would convince a reasonable person, or that no one would reasonably suspect from the individual's appearance that they were under 18.

An enforcing body, such as the police or trading standards, can apply for a closure notice, which prohibits the sale of alcohol at the premises, as an alternative to prosecution; the duration of this notice can range from 48 to 336 hours. Where a premises licence holder is convicted of an offence of persistently selling alcohol to children, the court may suspend the licence authorising the sale of alcohol at that premises for a period of up to three months.

Prohibition of unsupervised sales by children

The premises licence holder, designated premises supervisor, or other responsible person over the age of 18, commits an offence if they allow an individual under 18 to sell or supply alcohol unless the sale has been specifically approved and person is supervised. There are exceptions if alcohol is sold or supplied for consumption with a table meal. You need to check the ages of your staff and make sure you comply with the law.

Proxy sales of alcohol

'Proxy sales' is a term used to describe the purchase of alcohol on behalf of children.

A person commits an offence if they buy or attempt to buy alcohol on behalf someone under the age of 18. It is also an offence for a person to buy or attempt to buy alcohol for someone under the age of 18 to drink on licensed premises. However, it is legal for someone over 18 to buy beer, wine or cider for someone aged 16 or 17 to drink with a table meal on licensed premises, as long as the young person is accompanied at the meal by a person over the age of 18.

Although it is the person who buys or attempts to buy alcohol for a child who commits the offence, you have a duty under '*the protection of children from harm*' licensing objective to prevent such sales from occurring.

Keeping within the law

In order to keep within the law and therefore satisfy the legal defences, you must introduce an age verification policy and have effective systems to prevent sales to persons under the minimum legal age. These systems should be regularly monitored and updated as necessary to identify and put right any problems or weaknesses, or to keep pace with any advances in technology.

Key best practice features of an effective system include:

Age verification checks

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 introduced conditions that apply to all licensed premises. One of these is that if your premises sells or supplies alcohol, you must have an age verification policy. Always ask young people to produce proof of their age. The Chartered Trading Standards Institute, the Home Office and the Association of Chief Police Officers support the UK's national Proof of Age Standards Scheme (PASS), which includes a number of card issuers. You can be confident that a card issued under the scheme and bearing the PASS hologram is an acceptable proof of age.

A passport or photocard driving licence can also be accepted but make sure the card matches the person using it and that the date of birth shows they are at least the minimum legal age. Military identification cards can be used as proof of age but, as with other forms of identification, make sure the photo matches the person presenting the card and check the date of birth. Be aware that military identification cards can be held by 16 and 17-year-old service people.

Some young people may present false identification cards so it is advisable to also check the look and feel of a card. For example, the PASS hologram should be an integral part of a PASS card and not an add-on.

If the person cannot prove they are over 18, or if you are in any doubt, then the sale should be refused.

Please see the Home Office *False ID guidance* for more information.

Operate a Challenge 21 or Challenge 25 policy

This means that if the person appears to be under the age of 21 or 25, they will be asked to verify that they are at least the minimum legal age by showing valid proof of age. You can incorporate this into your age verification policy.

Staff training

Make sure your staff are properly trained. They should know which products are age restricted, what the age restriction is and the action they must take if they believe an underage person is attempting to buy. It is important that you can prove that your staff have understood what is required of them under the legislation. This can be done by keeping a record of the training and asking the member of staff to sign to say that they have understood it. These records should then be checked and signed on a regular basis by management or the owner. Members of staff should be advised that they themselves might be personally liable if they sell to young persons in breach of the legal requirements.

Maintain a refusals log

All refusals should be recorded (date, time, incident, description of potential buyer). Maintaining a refusals log will help to demonstrate that you actively refuse sales and have an effective system in place. Logs should be checked by the manager / owner to ensure that all members of staff are using them.

A specimen refusals log is attached.

Some tills have a refusals system built in. If using a till-based system, you should ensure that refusals can be retrieved at a later date. You should also be aware that some refusals are made before a product is scanned.

Store & product layout

Off-licensed premises should consider the layout of their store and site the alcohol in a place where it can be easily monitored, such as nearer to the counter or even behind it.

Till prompts

If you possess an EPOS system then it may be possible to use it to remind staff of age restrictions via a prompt.

Signage

Display posters showing age limits and a statement regarding the refusal of such sales. This may deter potential purchasers and act as a reminder to staff.

Closed circuit television (CCTV)

A CCTV system may act as a deterrent and reduce the number of incidents of underage sales. It will also help you to monitor 'blind spots' within your store if it is not possible to change the layout or relocate the products behind, or closer to, the counter.

Stay vigilant. Be aware of any young people outside your premises or nearby who may attempt to buy alcohol themselves or who may try and persuade an older person to buy it on their behalf.

Penalties

If you sell alcohol to an individual who is under 18 you could be prosecuted and the penalty is a fine. A personal licence to sell alcohol could be at risk.

If you knowingly allow the sale of alcohol to children you could be prosecuted and the penalty is a fine.

Where persistent sales of alcohol to underage individuals take place, the premises licence holder could receive a fine or a premises closure notice could be issued. Previous convictions, cautions and fixed penalties relating to sales of alcohol to individuals under 18 can all be used by the enforcing body as evidence.

If you allow someone under 18 to sell alcohol unsupervised the maximum penalty is a £200 fine.

A penalty notice for disorder (PND) may be issued where the person making the sale to an underage individual is a bar person or member of staff in an off-licensed premises. The current penalty charge is £90.

Further reading

Detailed guidance has been produced by the Home Office under section 182 of the Licensing Act 2003.

Key legislation

- Licensing Act 2003
- Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

Last reviewed / updated: July 2017

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to UK legislation can be found on each link's 'More Resources' tab; amendments to EU legislation are usually incorporated into the text.

© 2017 itsa Ltd.

Tobacco etc - labelling, advertising & packaging

In the guide

- [The law](#)
- [General labelling requirements](#)
- [Labelling requirements by product](#)
- [Standardized packaging requirements](#)
- [Other requirements](#)
- [Offences & defences](#)
- [Penalties](#)
- [Further reading](#)

This guidance is for England, Scotland & Wales

There are Regulations in place that are designed to reduce the appeal of tobacco products (particularly to young people), to prevent misleading claims about benefits of tobacco products and to make the required health warnings more noticeable. The overall aim is to reduce rates of smoking.

The law

The Tobacco and Related Products Regulations 2016 deal with the manufacture, presentation and sale of tobacco and related products, including herbal products for smoking, e-cigarettes and refill containers as well as smokeless and novel tobacco products.

The Standardised Packaging of Tobacco Products Regulations 2015 standardize the packaging of certain tobacco products by requiring the removal of all promotional features. The brand name and variant name, number of cigarettes, weight of the hand-rolling tobacco product, producer details, barcode and calibration mark are permitted but must be in a standardized format and the UK duty-paid mark must be displayed. The packaging must be a specific shape and in a certain colour; all other colours, trademarks, logos and promotional graphics are prohibited.

This guide will help you to understand your obligations to ensure that all tobacco and related products that you offer for supply or sale in the UK comply with the Regulations. There are some general rules that apply to all tobacco products, which you will find at the beginning of the guide. For ease of reference, the other key requirements of both Regulations have been combined in a way that clearly identifies how they apply to each type of product.

It may be useful for you to refer to the illustration below, which shows a typical cigarette pack that is fully compliant with both Regulations:



General labelling requirements

General conditions for all health warnings

Warnings on tobacco products make users aware of the health risks associated with smoking. There are new rules that apply to all health warnings on tobacco products:

- a health warning must cover the entire area that is reserved for it and must not be commented on or altered in any way
- it must be in English, fully visible, permanent, irremovably printed on the pack and surrounded by a black border. For a unit pack of a tobacco product other than cigarettes or hand-rolling tobacco in a pouch, the warning may be printed on a sticker fixed to the pack as long as the sticker is irremovable
- a health warning must remain intact when the pack is opened. However, the combined health warning (described in more detail below) may be split in the case of a unit pack with a flip-top lid. This is fine as long as the graphical integrity, visibility of the text and smoking cessation information remains in place

A health warning must not:

- be partially or totally hidden or interrupted by wrappers, jackets or boxes (except when a unit pack is inside a container pack)
- be partially or totally interrupted by any other item such as a tax stamp, price mark or security feature
- partially or totally hide or interrupt any tax stamp, price mark, tracking and tracing mark, security feature or any other mark required by law

General rules about the presentation of all tobacco products

These are rules that prohibit the packaging of tobacco products from misleading consumers.

No one may produce or supply a tobacco product where the package labelling or the product itself contains the following elements or features (including texts, symbols, names, trademarks, figurative signs and other types of sign):

- promotes a tobacco product or encourages its consumption by creating a false impression about its characteristics, health effects, risks or emissions
- information about the nicotine, tar or carbon monoxide content
- suggests that the tobacco product:
 - is less harmful than others
 - aims to reduce harmful effects of smoke
 - has vitalising, energising, healing, rejuvenating, natural or organic properties or has other health or lifestyle benefits
- refers to taste, smell, flavourings or additives or their absence (flavours are permitted in tobacco products other than cigarettes and hand-rolling tobacco, and cigarettes may have menthol flavour until 2020, but these are *not* permitted to be depicted or mentioned on the packets)
- resembles a food or a cosmetic product
- suggests a particular product has improved biodegradability or other environmental advantage
- must not contain printed vouchers or offer discounts, free distribution, two-for-one or similar offers

Labelling requirements by product

Tobacco products for smoking

(does not include large cigars, individually wrapped cigars or cigarillos)

Combined health warnings:

- a unit pack (single pack) and any container pack (multi-pack) of a tobacco product for smoking must carry a combined health warning consisting of a text warning and a colour photograph, as well as the smoking cessation statement 'Get help to stop smoking at www.nhs.uk/quit'
- it must appear on the front and back surfaces of the unit pack and any container pack using the same warning and photograph on each surface and in a format that includes the requirement to cover 65% of the area of the surface on which it appears
- the EU has laid out technical specifications for the layout, design and shape of the combined health warnings
- the photographs used as part of the combined health warning must be selected from a set specified for the production year during which the pack is produced

General warnings and information messages:

- a unit pack and any container pack of a tobacco product for smoking must carry the general health warning 'Smoking kills - quit now' and an information message 'Tobacco smoke contains over 70 substances known to cause cancer'
- the format for the health warning includes a requirement that it must cover 50% of the area of the surface on which it appears:
 - on most unit packs of cigarettes this means the general warning must appear on one secondary surface of the pack and the information message must appear on the other secondary surface
 - on a unit pack of cigarettes or hand-rolling tobacco in a shoulder box, the general warning and the information message must be complete on the larger of the two split parts of the box
 - on a cylindrical unit pack of hand-rolling tobacco that has a lid, the general warning must appear on the outside of the lid and the information message must appear on the inside surface of the lid

- there are specific rules that apply to the general warning and information message that appears on a unit pack of hand-rolling tobacco in the form of a rectangular pouch

Large cigars & individually wrapped cigars & cigarillos

The Regulations only apply to a unit pack or container pack that contains a single cigar or cigarillo, or two or more cigars each with a unit weight of more than three grams.

A unit pack and any container pack must carry the general health warning 'Smoking kills - quit now' and one of the text warnings that is listed in [annex I](#) of the EU directive on tobacco products (please scroll down the linked web page to see the annexes).

There are rules that cover the rotational use of text warnings by producers.

The format for the general health warning includes a requirement that it must appear on the most visible surface of the pack and cover 30% of that area.

The text warning must appear on the next most visible surface (or if the pack has a hinged lid, the surface that appears when the pack is opened) and cover 40% of that area.

Smokeless tobacco products

This means a tobacco product that is consumed in a way that does not involve a combustion process. It includes chewing tobacco and nasal tobacco.

Health warnings:

- a unit pack and any container pack of a smokeless tobacco product must carry the health warning 'This tobacco product damages your health and is addictive'
- the format for the health warning includes a requirement that it appears on both the front and back surfaces of the pack and covers 30% of that area

Herbal products for smoking

Herbal products for smoking are defined as products based on plants, herbs or fruits that do not contain tobacco and can be consumed via a combustion process. The Standardised Packaging of Tobacco Products Regulations 2015 do not apply to herbal products for smoking but the Tobacco and Related Products Regulations 2016 introduce new requirements as set out below.

Health warnings:

- a unit pack and any container pack of a herbal product for smoking must carry the health warning 'Smoking this product damages your health'
- the format for the health warning includes a requirement that it appears on both the front and back surfaces of the unit pack and any container pack and covers 30% of that area

A unit pack and any container pack of a herbal product for smoking must not state that it is free of additives or flavourings. Nor must it include any element or feature (including texts, symbols, names, trade marks, figurative signs or other types of sign) that:

- promotes or encourages the consumption of a herbal product for smoking by creating a false impression about its characteristics, health effects, risks or emissions
- includes any information about nicotine, tar or carbon monoxide content
- resembles a food or cosmetic product

- suggests a particular herbal product for smoking is:
 - less harmful than other herbal products for smoking
 - aims to reduce the effect of some harmful components of smoke
 - has vitalising, energising, healing, rejuvenating, natural or organic properties
 - has other health or lifestyle benefits

Standardized packaging requirements

Cigarette packs, individual cigarette sticks and hand-rolling tobacco packs must be produced and supplied in standardized packaging, which means they have to meet requirements laid down in the Standardised Packaging of Tobacco Products Regulations 2015.

Cigarette packs:

- the only permitted colour for the external packaging of a unit or container packet of cigarettes is Pantone 448C (drab dark brown) with a matt finish
- the internal packaging must be either white or Pantone 448C with a matt finish
- unit packets must be made of carton or soft material and cuboid in shape (bevelled or rounded edges are permitted)
- the packaging's surface must be smooth and flat and have no irregularities of shape or texture
- flip-top or shoulder boxed lids are permitted
- slim packets are prohibited but slim individual cigarette sticks are allowed
- inserts and additional material are prohibited
- any internal lining must be silver coloured foil (with no variation in tone or shade) with a white paper backing
- wrappers must be clear and transparent, not coloured or marked (except for any black marks required to cover a barcode), smooth and flat with no irregularity of shape or texture

A unit packet of cigarettes must contain a minimum of 20 cigarettes.

Individual cigarette sticks:

- cigarette paper, filter, casing or other material forming part of a cigarette must be plain white with a matt finish, apart from the end of the cigarette, the colour of which can imitate cork
- brand and variant names are permitted on the cigarette itself, subject to conditions

Hand-rolling tobacco:

- the only permitted colour or shade for the external packaging of a unit or container pack of hand-rolling tobacco is Pantone 448C (drab dark brown) with a matt finish
- the internal packaging must be either white or Pantone 448C with a matt finish
- unit packets may be cuboid (bevelled or rounded edges are permitted), cylindrical or take the form of a pouch
- packets must be smooth and flat (if cuboid in shape) with no irregularities of shape or texture
- wrappers must be clear and transparent and not coloured or marked with no irregularities or shape or texture
- the internal packaging must be either white or Pantone 448C with a matt finish
- inserts and additional materials are prohibited, except for cigarette papers or filters as long as they are not visible before the packet is opened
- any tabs for resealing the packet must be clear and transparent and not coloured or marked
- any foil seal that forms part of the internal packaging must be silver coloured with no variation in tone or shade

A unit packet of hand-rolling tobacco must contain at least 30 grams of tobacco.

The packaging of cigarette packs, individual cigarette sticks or hand-rolling tobacco must not make a noise, nor contain or produce a smell that is not normally associated with the product. In addition, packaging must not change after retail sale; this means that features such as heat activated inks, inks that appear fluorescent in certain light and removable tabs are not allowed.

The brand name and variant name, number of cigarettes, weight of the hand-rolling tobacco product, producer details, barcode, and calibration mark are permitted on the packaging but must be in a standardized format and the UK duty-paid mark must be displayed.

Take note that whilst large cigars, individually wrapped cigars and cigarillos must carry health warnings, the standardized packaging requirements do not apply to cigars and cigarillos, nor are there any restrictions on the number of these products in a unit packet.

Other requirements

Images of tobacco products aimed at consumers

Be aware that if you publish an image of a unit or container pack of a tobacco product (when it is lawful to do so according to tobacco advertising rules), the pack must comply with all the labelling and packaging requirements set out in both Regulations.

No vitamins, colourings or prohibited additives in tobacco products

No one may produce or supply a tobacco product containing:

- vitamins or other additives that create an impression that it has health benefits or reduces health risks
- caffeine, taurine or other additives or stimulants that are associated with energy and vitality
- additives that give colouring effects to any emissions
- additives that aid inhalation or nicotine uptake in the case of tobacco products for smoking
- additives with CMR properties or that can affect CMR properties (carcinogenic, mutagenic or toxic for reproduction)

No flavoured cigarettes or hand-rolling tobacco

Cigarette packs, individual cigarette sticks or hand-rolling tobacco, including any filter, paper, package or capsule component of the product, must not be produced or supplied with a characterising flavour. A filter, paper or capsule must not contain tobacco or nicotine and any technical features that would modify the smell, taste or smoke intensity of a product are not allowed.

These rules do not apply to menthol cigarettes until 20 May 2020.

Cross-border distance sales of tobacco products & e-cigarettes

If a retailer wants to sell tobacco products and e-cigarettes to consumers elsewhere in the European Economic Area (EEA) they must register their intention with the UK government. As part of this registration, a retailer must operate an age verification system that confirms that before or at the time of sale the consumer's age is not lower than the minimum age in the EU country where the consumer is located.

If a retailer outside the UK wants to sell tobacco products and e-cigarettes to consumers within the UK they must register their intention with the UK government.

The European Commission will make available a list of all countries that have banned such sales and details of the registration schemes in operation in other countries.

Product requirements

The Tobacco and Related Products Regulations 2016 set out new rules covering e-cigarettes. No one must produce or supply an e-cigarette or refill container unless they meet the following requirements:

- nicotine-containing liquid for retail sale must be in a dedicated refill container in a maximum volume of 10ml or in a disposable e-cigarette, single use cartridge or a tank in a maximum volume of 2ml
- the capacity of the tank of a refillable e-cigarette must not be more than 2ml
- there is a nicotine limit of 20mg per ml that applies to nicotine-containing liquids in an e-cigarette or refill container

Nicotine-containing liquid must:

- be manufactured using only ingredients of high purity
- not contain certain additives (the '**No vitamins, colourings or prohibited additives in tobacco products**' section of this guide gives more details) but can contain flavours
- not contain substances other than the ingredients that were part of the formal notification process laid down in the Regulations
- not include ingredients (except nicotine) that pose a risk to human health

In normal use the e-cigarette must deliver a consistent dose of nicotine.

An e-cigarette or refill container must be child-resistant and tamper-evident, protect against breakage and leakage and have a mechanism to ensure that refilling can take place without leakage (this does not apply to disposable e-cigarettes).

Information & labelling

No one may produce or supply an e-cigarette or refill container unless they meet the requirements set out below:

- each unit packet of the e-cigarette or refill container must include a leaflet with the following information:
 - instructions for storage and use, including a reference that the product is not recommended for use by young people and non-smokers
 - contra-indications
 - warnings for specific risk groups of people
 - possible adverse effects
 - addictiveness and toxicity
 - the producer's contact details (if the producer is not based in the EU then a contact person within the EU)
- each unit packet of the e-cigarette or refill container must include:
 - a list of all ingredients in descending order by weight
 - nicotine content and delivery per dose
 - batch number
 - recommendations to keep the product out of reach of children
- each unit packet and any container pack must carry the health warning 'This product contains nicotine which is a highly addictive substance'. It must appear on the front and back surfaces and cover 30% of that area

Product presentation

An e-cigarette or refill container must meet the following requirements before it is produced or supplied. The unit packet and any container pack may not include any element or feature (including text, symbols, names, trademarks, figurative or other types of sign) which:

- promotes or encourages consumption by creating a false impression about its characteristics, health effects, risks or emissions
- suggests it is less harmful than other e-cigarettes or refill containers, has vitalising, energising, healing, rejuvenating, natural or organic properties or has other lifestyle benefits
- refers to taste, smell or other additives (except flavourings) or their absence
- suggests that a particular e-cigarette or refill container has improved biodegradability or other environmental advantage
- must not contain printed vouchers, offer discounts, free distribution, two-for-one or other similar offers

E-cigarette advertising

E-cigarettes and refill containers cannot be advertised or promoted, directly or indirectly:

- on TV or on-demand TV
- on radio
- through internet advertising, commercial email and any other information society services
- in certain printed publications, such as newspapers, magazines and periodicals

The following activities are also prohibited:

- sponsorship of television and radio programmes that promote e-cigarettes
- product placement of e-cigarettes
- sponsorship of cross-border activities or events (those that have an effect in two or more EEA countries) or individuals that take part in cross-border activities or events

The rules on advertising do not prevent you from supplying information about e-cigarettes and refill containers as long as it is supplied at the request of a consumer and given in a non-promotional manner.

The requirements of the Standardised Packaging of Tobacco Products Regulations 2015 do not apply to e-cigarettes or refill containers.

Offences & defences

Tobacco and Related Products Regulations 2016

A person is guilty of an offence if they breach a provision of the Tobacco and Related Products Regulations 2016. A producer or retailer is guilty of an offence if they knowingly or recklessly provide information that is false or misleading to someone who has obligations under the Regulations.

There is a general defence available to suppliers of tobacco or other related products that they exercised all due diligence to avoid committing the offence. The same defence is available to anyone who has committed an offence related to advertising and sponsorship. There are further defences available to anyone who has committed offences relating to e-cigarette advertising: that they did not know and had no reason to suspect that the advertisement was an e-cigarette advertisement or that the newspaper, periodical or magazine contained an e-cigarette advertisement.

Standardised Packaging of Tobacco Products Regulations 2015

A person who produces or supplies a tobacco product in breach of the Standardised Packaging of Tobacco Products Regulations 2015 is guilty of an offence. It is a defence if the person neither knew nor had reasonable grounds for suspecting that the tobacco product was supplied in breach of the 2015 Regulations.

Penalties

The maximum penalty is a fine and two years' imprisonment.

Further reading

Brief [guidance on standardized packaging](#) has been produced by the Association of Convenience Stores and is available on its website.

More detailed [guidance on the packaging of tobacco products](#) and [guidance on the distribution and advertising of e-cigarettes](#) has been produced by the Department of Health.

Key legislation

- [Standardised Packaging of Tobacco Products Regulations 2015](#)
- [Tobacco and Related Products Regulations 2016](#)

Last reviewed / updated: May 2017

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to UK legislation can be found on each link's 'More Resources' tab; amendments to EU legislation are usually incorporated into the text.

© 2017 itsa Ltd.

Tobacco and nicotine inhaling products

In the guide

- [What is meant by tobacco, tobacco products & nicotine inhaling products?](#)
- [Age restriction on the sale of tobacco products](#)
- [Age restriction on the sale of nicotine inhaling products](#)
- [Persistent sales to under 18s](#)
- [Proxy purchase of tobacco & nicotine inhaling products](#)
- [Is it legal to sell single cigarettes?](#)
- [Can tobacco be sold from vending machines?](#)
- [Display & price marking of tobacco products](#)
- [Cigarette lighter refills](#)
- [Matches & lighters](#)
- [Defences](#)
- [Keeping within the law](#)
- [Penalties](#)

This guidance is for England

Certain products cannot be sold to persons below a legal minimum age; for tobacco and nicotine inhaling products this legal minimum age is 18.

A packet of cigarettes must contain a minimum of 20 cigarettes and must only be sold in its original packaging. A notice must be displayed stating 'It is illegal to sell tobacco products to anyone under the age of 18'.

Tobacco products must not be on display in-store and there are also restrictions on how prices and price lists are displayed.

Young people should always be asked for proof of their age.

What is meant by tobacco, tobacco products & nicotine inhaling products?

'Tobacco' is defined as including cigarettes, any product containing tobacco for oral or nasal use (for example, snuff), and smoking mixtures used as a substitute for tobacco (for example, herbal cigarettes). 'Cigarettes' include cut tobacco rolled up in paper, tobacco leaf and other material in a form that is capable of being immediately used for smoking.

A 'tobacco product' is defined as '*a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed*'.

A 'nicotine inhaling product' means a nicotine inhaling device (used to inhale nicotine through a mouth piece), nicotine cartridge (contains nicotine and forms part of a nicotine inhaling device) or nicotine refill substance (generally known as e-liquid). Nicotine inhaling devices are commonly referred to as 'e-cigarettes' and the law covers both disposable and rechargeable types.

Age restriction on the sale of tobacco products

The law states that it is an offence for **any person** to sell any tobacco products (including cigarette papers) to a person under the age of 18 whether or not it was for their own use. This is a strict liability offence, which means the owner of the business can be held responsible as well as the member of staff who made the sale. If you are charged with this offence, you have the defence that you took all reasonable precautions and exercised all due diligence to avoid committing the

offence. This is commonly known as the 'due diligence' defence. The **'Keeping within the law'** section of this guide includes steps that can be taken to provide a 'due diligence' defence.

You must display a notice that states:

**IT IS ILLEGAL TO SELL
TOBACCO PRODUCTS
TO ANYONE UNDER
THE AGE OF 18**

The notice must be displayed in a prominent position and be easily visible at the point of sale. The notice must be no less than 297mm x 420mm (A3) and the characters must be no less than 36mm in height. Your local trading standards service or your tobacco supplier may be able to provide a notice for you to use. It is an offence if you do not have the required notice on display, although the 'due diligence' defence is available to you.

If you employ children in your business, it is not illegal for them to sell tobacco products, provided of course that the customer is not under 18. However, leaving unsupervised children selling tobacco is not recommended as they may find it difficult to refuse customers in their own age group.

Age restriction on the sale of nicotine inhaling products

A person who sells a nicotine inhaling product to someone under the age of 18 commits an offence. This is a strict liability offence; the owner of the business can be held responsible as well as the member of staff who made the sale.

There is an exception for nicotine inhaling products that are licensed as medicines or medical devices. This exemption only applies to the extent to which the product is authorised.

If you sell e-cigarettes and associated devices you might want to display a poster advising customers that you will not sell to under 18s:

**If I sell e-cigarettes or
nicotine refills to
people under 18...**

**TRADING STANDARDS
WILL PROSECUTE ME**

Note: unlike the tobacco poster, this is NOT a legal requirement and is simply suggested wording.

Additional guidance for pharmacies (and other retailers that have not traditionally sold age-restricted products) has been produced by the Department of Health, the Medicines Healthcare products Agency and the Chartered Trading Standards Institute.

Persistent sales to under 18s

If you are convicted of selling tobacco or nicotine inhaling products to persons under the age of 18, and at least two other offences occurred in the preceding two years relating to the same premises, trading standards can make an application to a Magistrates' Court for a restricted premises order and/or a restricted sales order.

A restricted premises order prohibits the sale from the premises of any tobacco, cigarette papers or nicotine inhaling products to any person, by you or any of your staff for a period of up to one year. You are entitled to make representations to the court as to why they should not grant the order.

A restricted sales order prohibits a specified person who has been convicted of a tobacco or nicotine offence from selling any tobacco, cigarette papers or nicotine inhaling products to any person and from having any management function related to the sale of tobacco, cigarette papers or nicotine inhaling products for a period of up to one year.

Offences are committed if a person sells tobacco, cigarette papers or nicotine inhaling products when a restricted premises order is in place or if a person fails to comply with a restricted sales order.

Proxy purchase of tobacco & nicotine inhaling products

An adult who buys or attempts to buy tobacco, cigarette papers or nicotine inhaling products on behalf of someone under the age of 18 commits an offence. This is called 'proxy purchasing'.

It is the buyer and not the trader who commits an offence under these circumstances. However, be aware of young people loitering outside your premises; they may ask adult customers to buy tobacco, cigarette papers or nicotine inhaling products for them. You may wish to refuse such sales.

Is it legal to sell single cigarettes?

No. A packet of cigarettes must contain a minimum of 20 cigarettes. It is an offence to sell cigarettes to any person other than in their original package. This means you must not split a pack and sell in lesser quantities.

Can tobacco be sold from vending machines?

No. Under the Protection from Tobacco (Sales from Vending Machines) (England) Regulations 2010, the sale of tobacco from an automatic vending machine is prohibited. If a sale takes place, the person who controls, or is concerned with the management of the premises where the automatic vending machine is located, commits the offence.

Any machines still on the premises can only be used for storage where the public do not have access to them (such as behind the bar) and must not display any advertising material.

Display & price marking of tobacco products

Under the Tobacco Advertising and Promotion (Display) (England) Regulations 2010, you are required to cover your display of tobacco products. It is an offence to display tobacco products unless a specific request to purchase tobacco has been made to you by a person over the age of 18. It is NOT an offence to display tobacco-related accessories such as cigarette papers.

If you are charged with an offence where a requested display was to a person under the age of 18, you have the defence that you believed the person was aged 18 or over **and** you had taken all reasonable steps to establish their age or from their appearance no-one could reasonably have suspected that the person was under 18. Taking 'all reasonable steps' means asking the person for evidence of their age and the evidence would convince a reasonable person. If you are charged with an offence of causing the display of a tobacco product, you have the defence available that you exercised all due diligence to avoid committing the offence.

There are also strict requirements relating to the manner in which tobacco products are price-marked, as set out in the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010; there are only three forms of lists and labels that are allowed (see paragraphs 49-62 of the detailed guidance linked to below).

There are specific rules for bulk and specialist tobacconists (see paragraphs 38-39 and 60-62 of the detailed guidance).

There is a range of guidance available to assist you in compliance:

Brief guidance has been produced by the Association of Convenience Stores and is available on its website.

More detailed guidance has been produced by the Department of Health and the Chartered Trading Standards Institute.

A Q&A document from DH and CTSI is also available.

Cigarette lighter refills

Under the Cigarette Lighter Refill (Safety) Regulations 1999 it is an offence to supply any cigarette lighter refill canisters containing butane to anyone under the age of 18. This is because of the potential for abuse by 'sniffing' the gas, which can be extremely dangerous. See 'Cigarette lighter refills & solvents' for further details.

Matches & lighters

It is not illegal to sell matches or lighters to children. However, it is recommended that you do not sell these items to children, who are unlikely to have a legitimate use for them.

Defences

If you are charged with any of the offences detailed above, you have the defence that you took all reasonable precautions and exercised all due diligence to avoid committing the offence. For age-restricted products such as tobacco this generally means that you believed the person was aged 18 or over and you had taken all reasonable steps to establish their age or that from their appearance no-one could reasonably have suspected that the person was under 18. Taking 'all reasonable steps' means asking the person for evidence of their age and that the evidence would convince a reasonable person.

Keeping within the law

In order to keep within the law and therefore satisfy the legal defences, you should introduce an age verification policy and have effective systems to prevent sales and display to persons under 18 years of age. These systems should be regularly monitored and updated as necessary to identify and put right any problems or weaknesses, and to keep pace with any advances in technology.

Key best practice features of an effective system include:

Age verification checks

Always ask young people to produce proof of their age. The Chartered Trading Standards Institute, the Home Office and the Association of Chief Police Officers support the UK's national Proof of Age Standards Scheme (PASS), which includes a number of card issuers. You can be

confident that a card issued under the scheme and bearing the PASS hologram is an acceptable proof of age.

A passport or UK photocard driving licence is also acceptable but make sure the card matches the person using it and that the date of birth shows they are over 18. Military identification cards can be used as proof of age but, as with other forms of identification, make sure the photo matches the person presenting the card and check the date of birth. Be aware that military identification cards can be held by 16 and 17-year-old service people.

Some young people may present false identification cards so it is advisable to also check the look and feel of a card. For example, the PASS hologram should be an integral part of a PASS card and not an add-on.

If the person cannot prove they are over 18 or if you are in any doubt, then the sale should be refused.

Please see the Home Office *False ID guidance* for more information.

Operate a Challenge 21 or Challenge 25 policy

This means that if the person appears to be under the age of 21 or 25, they will be asked to verify that they are over 18 by showing valid proof of age.

Staff training

Make sure your staff are properly trained. They should know which products are age restricted, what the age restriction is and the action they must take if they believe a person under 18 is attempting to buy. It is important that you can prove that your staff have understood what is required of them under the legislation. This can be done by keeping a record of the training and asking the member of staff to sign to say that they have understood it. These records should then be checked and signed on a regular basis by management or the owner.

Maintain a refusals log

All refusals of tobacco and tobacco products should be recorded (date, time, incident, description of potential buyer). Maintaining a refusals log will help to demonstrate that you actively refuse sales and have an effective system in place. Logs should be checked by the manager / owner to ensure that all members of staff are using them.

A specimen refusals log is attached.

Some tills have a refusals system built in. If using a till-based system, you should ensure that refusals can be retrieved at a later date. You should also be aware that some refusals are made before a product is scanned.

Till prompts

If you possess an EPoS system then it may be possible to use it to remind staff of age restrictions via a prompt. Alternatively, stickers can be used over certain product barcodes.

You should note that till prompts will not help you prevent offences under the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 as the scan and prompt takes place after the display has been made.

Signage

You must display the legally required tobacco notice (see above). This should deter potential purchasers and act as a reminder to staff.

Closed circuit television (CCTV)

A CCTV system may act as a deterrent and reduce the number of incidents of underage sales.

Penalties

If you sell tobacco products or cigarette papers to a person under the age of 18 the maximum penalty is a fine of £2,500.

If you sell nicotine inhaling products to a person under the age of 18 the maximum penalty is a fine of £2,500.

If you sell cigarettes to any person, other than in their original package, the maximum penalty is a fine of £1,000.

If you fail to display the required tobacco notice the maximum penalty is a fine of £1,000.

If you break a restricted premises order or a restricted sales order the maximum penalty is a fine.

If you sell tobacco from a vending machine the maximum penalty is a fine of £2,500.

If you display tobacco products or cause tobacco products to be displayed to an individual under the age of 18 or in any manner other than the limited circumstances set out in the law (see '**Display & price marking of tobacco products**' above) the maximum penalty is a fine and two years' imprisonment.

If you fail to display prices of tobacco products, or if you do display prices or cause them to be displayed in any format except those set out in the law (see '**Display & price marking of tobacco products**' above), the maximum penalty is a fine and two years' imprisonment.

If you supply any cigarette lighter refill canister containing butane to any person under the age of 18 the maximum penalty is a fine and six months' imprisonment.

Key legislation

- [Children and Young Persons Act 1933](#)
- [Children and Young Persons \(Protection from Tobacco\) Act 1991](#)
- [Cigarette Lighter Refill \(Safety\) Regulations 1999](#)
- [Tobacco Advertising and Promotion Act 2002](#)
- [Protection from Tobacco \(Sales from Vending Machines\) \(England\) Regulations 2010](#)
- [Tobacco Advertising and Promotion \(Display\) \(England\) Regulations 2010](#)
- [Tobacco Advertising and Promotion \(Display of Prices\) \(England\) Regulations 2010](#)
- [Children and Families Act 2014](#)
- [Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations 2015](#)
- [Standardised Packaging of Tobacco Products Regulations 2015](#)

Last reviewed / updated: May 2017

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to UK legislation can be found on each link's 'More Resources' tab; amendments to EU legislation are usually incorporated into the text.

© 2017 itsa Ltd.

Trading Standards Institute Advice

Company and business names

In the guide

- Who do the business names provisions apply to?
- PART 1: Sole traders & partnerships
- Business names display
- PART 2: Companies
- Rules on names
- Displaying company information
- PART 3
- Penalties
- Other requirements

This guidance is for England, Scotland & Wales

Requirements for the use, display and disclosure of company, business and trading names are detailed in three pieces of legislation:

- Companies Act 2006
- Company, Limited Liability Partnership and Business Names (Sensitive Words and Expressions) Regulations 2014
- Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015

There are requirements relating to the name a business chooses to trade under and rules to prevent the use of names that could mislead the public.

Who do the business names provisions apply to?

This legislation gives detailed requirements regarding names that businesses can choose to trade under and how particular details about businesses have to be disclosed to their customers. The provisions apply to:

- individuals who trade under a name that is not their own
- partnerships that do not operate under the names of the individual partners
- companies / limited liability partnerships

PART 1: Sole traders & partnerships

Sole traders and partnerships that are not registered companies are required to display and disclose detailed information about their businesses when they use a business name that is not their surname (with or without forenames or initials), or one that uses the names of all the partners.

For example, if John Smith has a shop called Happy Family Bakers the disclosure requirements would apply to him; were he to call his business Mr Smith, John Smith, or J Smith, they would not. The same would apply to a partnership. If John Smith and David Jones have a business partnership called Happy Bakers the disclosure requirements would apply; were they to call their business J Smith and D Jones, or Smith and Jones, they would not.

As well as the above, the disclosure requirements do not apply when a business is continuing the trade of a former owner, and the new name includes both the former and current owners - for example, 'Mr Smith (formerly Mr Jones)'.

Business names display

Where a sole trader or partnership carries on business under a name that is not that of the proprietor or partners their details must be fully disclosed to customers and suppliers in order to make it clear who they are doing business with.

The information that is required to be disclosed is:

- the full name of the proprietor or all of the partners
- an address at which the business can be contacted and have legal documents formally served on it

The required information must be:

- displayed in a prominent position in all business premises where customers and suppliers have access
- included legibly on all business documents:
 - letters
 - written orders for goods or services
 - invoices and receipts
 - written demands for payment
 - business websites (a requirement under the Electronic Commerce (EC Directive) Regulations 2002)
- given immediately in writing to any customer or supplier who requests business details information

Partnerships of more than 20 persons are not required to disclose details all of the partners in business documents if:

- a list of the names of all the partners is maintained at the principal place of business
- none of the partner's names appears in documents except in the text or as a signatory
- documents state legibly the address of the partnership's principal place of business and that the list of the partners' names is open to inspection there

- the list of the partners' names is available for inspection during office hours

Below is an example of a notice that could be displayed to comply with the business premises requirements for a sole trader. Partnerships need to include the full names of all of the partners in such a notice.

**PARTICULARS OF OWNERSHIP OF
Happy Family Bakery** as required by section 1204 of the Companies Act 2006

Full name of owner: John Smith

Address at which documents relating to the business may effectively be served:

The Cottage Bakery
10 Cobb Street
Bath
BA23 3UN

PART 2: Companies

The following requirements apply only to companies that are registered with Companies House.

Rules on names

There are specific rules in the legislation concerning incorporation and names that can be used and registered with Companies House, full guidance on which can be found on the GOV.UK website.

Briefly, the rules concerning company names include:

- having a maximum of 160 characters
- not being the same as a current registered company
- not infringing registered trade marks
- containing only permitted characters, punctuation, abbreviations, signs and symbols
- not using words or expressions that are banned or need approval from the Secretary of State such as:
 - 'association'
 - 'royal'
 - 'English'
 - 'council'

Displaying company information

Registered name

Active companies must display their full registered company name at:

- their registered office
- all other locations at which they carry on business except those used primarily for living accommodation
- an inspection place at which required company records are kept available for inspection

This requirement does not apply to companies where every individual director is required to refrain from disclosing protected information to a credit reference agency.

Manner of display

Where business premises are shared by up to five companies the registered name must be:

- easily seen by visitors
- continuously displayed

Where business premises are shared by six or more companies each company must ensure that their registered name is either:

- displayed for at least fifteen continuous seconds at least once every three minutes
... or
- available for inspection by visitors

Registered name to appear in communications

Companies must disclose their registered name on:

- business letters
- notices
- official publications
- websites
- bills of exchange
- promissory notes
- endorsements
- order forms
- cheques signed by or on behalf of the company
- orders for money, goods or services signed by or on behalf of the company
- bills of parcels
- invoices
- demands for payment
- receipts
- letters of credit
- applications for licences to carry on a trade or activity
- all other forms of their business correspondence and documentation

Further particulars to be disclosed

Companies must disclose the following particulars on their business letters, order forms and websites:

- the part of the United Kingdom in which the company is registered
- the company's registered number
- the address of the company's registered office
- that they are a limited company (for companies exempt from the obligation to use the word 'limited')
- that they are a limited company (for community interest companies that are not public companies)
- that they are an investment company (where appropriate)

If companies disclose the amount of share capital in those places the disclosure must be as to paid-up share capital.

Disclosure of names of directors

Where a company's business letters include the names of any individual or corporate director of the company, other than in the text or as a signatory, the letter must disclose the names of every director of the company.

Requests for company information

Within five working days of receiving a written request for company information from anyone it deals with in the course of business, companies must send a written reply disclosing:

- their registered office address
- the location of any inspection place
- the type of company records that are kept at that those places

Legibility of displays & disclosures

All information that is required to be displayed or disclosed must be clearly legible.

PART 3

The following applies equally to sole traders, partnerships and companies.

Penalties

It is an offence to fail to comply with these requirements. The maximum penalty is a £1,000 fine plus, for continued contravention, a maximum daily default fine of £100.

Other requirements

Trading names & trade marks

Whether you have a business, partnership or company, you may well wish to trade under a different name. If you do, you need to be aware that you cannot use another company's trade mark as your business name. You can search the trade mark register on the GOV.UK website to find out if a mark is already registered.

If someone else begins to trade using your trade name or your unregistered trade mark you may have to take an action for 'passing off' in the civil courts to stop them. Therefore, you may wish to register your trade name or unregistered trade mark for enhanced protection.

To be registered, trade marks must comply with the rules relating to trade mark registration and certain names or marks are not eligible for registration - for example, marks that include common trade terms, such as A1 Taxis, A1 Cleaners, etc. However, this does not prevent anyone carrying on a business under those names. To register a trade mark you can apply online to the Intellectual Property Office (IPO).

See 'Intellectual property' for more information.

Distances sales

Also applicable to any business that trades through advertisements or online are the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. These Regulations require a supplier to provide a prospective buyer with details about themselves. Before a consumer concludes an online transaction or responds to an advert etc the supplier must provide details of the postal address of their business, so that a consumer may address complaints in a durable written format.

The Electronic Commerce (EC Directive) Regulations 2002 require businesses selling or advertising online to provide certain information on their website, some of which overlaps with the above requirements, such as the company or business name, a UK geographic address and detailed information on pricing, delivery charges, etc.

See 'Consumer contracts - distance sales' for more information.